

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRANDON LEWIS KELLY,

Defendant.

CR-21-29-GF-BMM

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on January 18, 2023. (Doc. 50.)

When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Bad Old Man v. Arn*, 474 U.S. 140, 153-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on January 17, 2023. (Doc. 48.) The United States accused Brandon Lewis Kelly, (Kelly) of violating his conditions of supervised release 1) by using methamphetamine on two separate occasions; and 2) by committing another crime. (Doc. 45.)

At the revocation hearing, Kelly admitted to violating the conditions of his supervised release by using methamphetamine on two separate occasions but denied alleged violation 3. Judge Johnston dismissed alleged violation 3 on the government's motion. (Doc. 48.) Judge Johnston found that the violations Kelly admitted proved to be serious and warranted revocation, and recommended revocation of Kelly's supervised release and recommended a custodial sentence for 7 months, with 41 months supervised release to follow. (Doc. 50.) Kelly was advised of his right to appeal and his right to allocute before the undersigned. (Doc. 48.) The violations prove serious and warrant revocation of Kelly's supervised release. The Court finds no clear error in Judge Johnston's Findings and Recommendations.

Accordingly, **IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 50) are **ADOPTED IN FULL. IT IS FURTHER ORDERED** that Defendant Brandon Lewis Kelly be sentenced to the Bureau of Prisons for 7 months, with 41 months of supervised release to follow. **IT IS ALSO ORDERED** that Special Condition 6 will be amended to state that Kelly must

participate in and successfully complete an outpatient substance abuse treatment program or an inpatient substance abuse treatment program as directed by his probation officer.

DATED this 6th day of February, 2023.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court